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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,761	01/09/2004	William Roy BURKE	05111.0102.DVUS03	1760
22446	7590	05/04/2005	EXAMINER	
ICE MILLER ONE AMERICAN SQUARE BOX 82001 INDIANAPOLIS, IN 46282			RAO, G NAGESH	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 05/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/707,761		BURKE, WILLIAM ROY	
	Examiner		Art Unit	
	G. Nagesh Rao		1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/11/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/11/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

12

Response to Arguments

Drawings

1. The drawings were received on 4/12/05. These drawings are acceptable for review in the application.

Claim Rejections - 35 USC § 102

2. Claims 1, 4-6, and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Shepherd (U.S. Patent No. 5,256,222).

Shepherd 222 teaches building a material board and a method of manufacturing the material through an apparatus that reads on claimed invention.

With respect to claim 1 and 14-15, Shepherd 222 teaches to construct an apparatus comprising a mixer (figure 3 element 24), a feed hopper that reads on extrusion die containing a die inlet, die exit, a means for communicating with the mixer, and multiple inlets attached to the mixer (figure 3, elements 32, 26, 28, 30), a conveyor belt system that reads on flat movable surface (column 5 lines 61-68 and column 6 lines 1-24), and a dryer (figure 3 element 72).

Art Unit: 1722

With respect to claim 4 the material has a positive displacement flow in the mixer since it is being led out an extruder onto the conveyor belt for further processing.

With respect to claim 5 the mixer (figure 3 element 24) comprised of multiple inlets that read on as a type of conduit ports as seen in figure 3 elements 26, 28, and 30.

With respect to claims 6 and 16 it appears in figure 3 of Shepherd 222 that the feed hopper, which reads on as a type of extruder, has a die exit with a rectangular cross section.

It is the examiner's position that Shepherd 222 reads on the claimed invention, applicant fails to note that the mixer in connection to the feed hopper must have an inlet connection and furthermore the inlets of (26, 28, and 30) are broadly interpreted as secondary inlets that end up leading toward the feed hopper via the mixer. This is based on the fact that inlets for, the purpose of material extruded through, the die are going to be mixed before extruded out.

Examiner notes something could not be substantially identical to that of the gypsum wallboard core. It either is or is not, and the materials worked upon are viewed as a recitation of intended use and bear no weight to the structural limitations of the apparatus.

Art Unit: 1722

Furthermore the shape of the product coming out of the die is an effective resultant variable, and the aftermath production of the thickness consistency has to do with the chemical and material properties of the material to retain its composure and consistency not necessarily the die size.

Claim Rejections - 35 USC § 103

3. Claims 2-3 rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (U.S. Patent No. 5,256,222) in view of Chihara (U.S. Patent No. 5,505,771).

Shepherd 222 teaches a mixer "...may be of any suitable type as long as it is capable of thoroughly mixing the various ingredients without destroying the integrity of the expanded perlite particles. Preferably, it would be a low-to-moderate shear horizontal paddle or ribbon type mixer..."

Chirara 771 teaches a dental gypsum composition, where it is taught using a mixer, whether it be a twin or single screw mixer, could be utilized to process gypsum materials (column 3 lines 15-25).

Thus it would be obvious to one skilled in the art to modify the mixer of Shpherd 222 to entail the single or twin screw mixer of Chirara 771 for enhanced mixing of the gypsum material.

4. Claims 7-10 and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (U.S. Patent No. 5,256,222).

It is obvious to one skilled in the art to want the material extruded into flat sheets, as mentioned in the prior art of Shepherd since it would be on the spot ready made material as dry-wall and plaster for walls.

Examiner respectfully disagrees with applicant and points to Shepherd 222 specification (Column 8 lines 44-54), where an example of the dimensions for the plasterboard are discussed and read upon claimed values.

Furthermore the rectangular flat sheets are the result of an effective variable and can be processed in various shapes and sizes as denoted by its use prevalent use in the building industry.

Applicant failed to acknowledge and respond to the teachings of the dimensions taught in Shepherd 222 that would indicate plausible size variations for the die related to an apparatus for production of gypsum core material.

5. Claim 11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (U.S. Patent No. 5,256,222) in view of Honda (U.S. Patent No. 4,569,715).

Art Unit: 1722

Honda 715 teaches a plywood manufacturing method and apparatus which is in a similar art with the Shepherd 222 apparatus, and in the specification it teaches the use of a convection and microwave dryer for drying the material (column 9 lines 5-20), and therefore it would be obvious to modify the Shepherd 222 dryer to entail a microwave or convection dryer for the purpose of a rapid heat dry for the gypsum material.

Conclusion

6. Examiner notes applicant basis for overcoming this rejection was based on its dependency on allowable claim. Seeing that claim 1 is not allowable, and there being no evidence as to why the art applied in the 103 rejection is not valid, the 103 rejection stands on its previously presented merits.

7. Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the

Art Unit: 1722

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Utech can be reached on (571) 272-1137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GNR

Joseph S Del Sole 5/2/05
Joseph S. Del Sole